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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,186	04/18/2008	Paul Breedveld	6900-28 (191006)	7309
30448	7590	06/23/2011	EXAMINER	
AKERMAN SENTERFITT			HENDERSON, RYAN N	
P.O. BOX 3188				
WEST PALM BEACH, FL 33402-3188			ART UNIT	PAPER NUMBER
			3779	
			NOTIFICATION DATE	DELIVERY MODE
			06/23/2011	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip@akerman.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/597,186	BREEDVELD ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	RYAN HENDERSON	3779

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 5/5/11, Response to Restriction.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-15 is/are pending in the application.  
 4a) Of the above claim(s) 6,8 and 10-15 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5,7 and 9 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 14 July 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>7/14/2006</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Species A, Sub-Species A, readable on claims 1-5, 7 and 9 in the reply filed on 5/5/11 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)) and claims 6, 8 and 10-15 have been withdrawn as being directed to a non elected species. Claim 13 is withdrawn since it depends from claim 6 which is directed toward a non-elected species. Furthermore, if claim 13 were dependent upon claim 1, then it would be redundant with claim 9.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 9 recites the limitation "the construction element" in line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohline et al. (US Patent Application Publication No. 2003/0045778, hereinafter Ohline).

**In regard to claim 1**, Ohline discloses an instrument for high-precision or surgical applications of a minimally invasive nature, comprising:

a distally positioned directable head (24),

a shaft (28) upon which the head is positioned;

and a proximal end equipped for operating the head (45),

wherein a ring of cables (**Fig. 6D, #560**) comprising longitudinally extending cables connects to the head, which cables are fixedly secured in the radial direction (**see Fig. 6D**), and

wherein each cable of the ring of cables is disposed such that at least a part of both sides is in direct contact with another cable of the ring of cables (**see Fig. 6D multiple sides of each cable are in contact with another cable**).

**In regard to claim 2**, Ohline teaches of the instrument according to claim 1, wherein the ring of cables is designed for mechanically coupling the head to the handgrip (**the cables run from the electronic controller (handgrip) to the directable head, thereby mechanically coupling the head to the handgrip**).

**In regard to claim 3**, Ohline teaches of the instrument according to claim 2, wherein the ends of at least some of the cables of the ring of cables possess a fastening to the head and to the proximal end (**the cables are required to be fastened to the proximal end and head to transmit the actuating forces to the head**).

**In regard to claim 4**, Ohline teaches of the instrument according to claim 3, wherein the fastening is embodied as an interior ring and an exterior ring which together delimit a slot for clampingly receiving the cables (**the vertebrae, shown in Figs. 6D-6E, is comprised of an inner and outer ring, with a slot formed therebetween for containing the cables**).

**In regard to claim 7**, Ohline teaches of the instrument according to claim 1, wherein the ring of cables is provided at its interior side with an interior spring lying against the cables of the ring of cables (**Fig. 4B shows a spring disposed within the interior side of the cables**).

**In regard to claim 9**, Ohline teaches of the instrument according to claim 8, wherein the construction element lies against the cables of the ring of cables (**the vertebrae shown in Figs. 6D-6E lies against the ring of cables**).

6. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Boyd et al. (US Patent Application Publication No. 2008/0086854, hereinafter Boyd).

**In regard to claim 1**, Boyd discloses an instrument for high-precision or surgical applications of a minimally invasive nature, comprising:

a distally positioned directable head (16),  
a shaft (14) upon which the head is positioned;  
and a proximal end equipped for operating the head (38),  
wherein a ring of cables (12) comprising longitudinally extending cables connects to the head, which cables are fixedly secured in the radial direction (see Fig. 3), and  
wherein each cable of the ring of cables is disposed such that at least a part of both sides is in direct contact with another cable of the ring of cables (see Fig. 3).

**In regard to claim 5**, Boyd teaches of the instrument according to claim 1 wherein the ring of cables is enclosed by an exterior spring lying against the cables of the ring of cables.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN HENDERSON whose telephone number is (571)270-1430. The examiner can normally be reached on M-F 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Kasztejna can be reached on (571)272-6086. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. H./  
Examiner, Art Unit 3779  
June 16, 2011

/MATTHEW J KASZTEJNA/  
Primary Examiner, Art Unit 3779